



**Rule and Interpretive/Policy Statement Review Checklist**  
(This form must be filled out electronically.)

**This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.**

All responses should be **bolded**.

Document(s) Reviewed (include title): **WAC 458-61-090 Interest and penalties—Date of sale**

Date last adopted/issued: **7/31/1999**

Reviewer: **Ed Ratcliffe**

Date review completed: **8/19/2002**

Briefly explain the subject matter of the document(s): **Chapter 82.45 RCW imposes an excise tax on real estate sales. This tax is imposed at the time of sale. WAC 458-61-090 explains how to determine the date of sale. It also explains the application of interest and penalties when the tax is not paid within thirty days of the date of sale.**

Type an “X” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If “yes,” provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Need:**

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	<b>X</b>	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	<b>X</b>	Have the laws changed so that the document should be revised or repealed? (If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
<b>X</b>		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of



	Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)
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Please explain.

**3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:**

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is "yes" to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to



		achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	<b>X</b>	Do changes in industry practices warrant repealing or revising this document?
	<b>X</b>	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

**5. Intent and Statutory Authority:**

<b>YES</b>	<b>NO</b>	
<b>X</b>		Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)
<b>X</b>		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	<b>X</b>	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain. **RCW 82.45.150 provides the department rule-making authority for the effective administration of this chapter.**

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

<b>YES</b>	<b>NO</b>	
	<b>X</b>	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain. **The department has exclusive authority for making and administering excise tax rules. The subject matter of WAC 458-61-090 (determining the date of sale for real estate transactions and applying interest and penalty to delinquent real estate liabilities) is applied by county officials and other professionals involved in the transfer of real estate titles. The department continues to work closely with stakeholders, including the Washington Association of County Officials, to eliminate or reduce inconsistency.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

<b>YES</b>	<b>NO</b>	
	<b>X</b>	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)



Please explain. **This is an interpretive rule that imposes no new or additional administrative burdens on businesses that are not already imposed by the law.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
X		Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain. **This rule defines the date of sale, clarifies application of penalties and interest, and describes when payment is due. The rule provides standards which promote equitable treatment through consistent application of the underlying statutes.**

**The document nonetheless should cross-reference the date of sale information for sales of a controlling interest of an entity owning Washington real property and provide direction for determining the date of sale when water rights are transferred.**

**9. LISTING OF DOCUMENTS REVIEWED:** Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

- **Chapter 82.45 (Excise tax on real estate sales). In particular, RCW 82.45.100 (Tax payable at time of sale--Interest, penalties, on unpaid or delinquent taxes--Prohibition on certain assessments or refunds--Deposit of penalties.)**
- **Chapter 82.46 (Counties and cities--Excise tax on real estate sales).**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **None.**

Court Decisions: **None.**

Board of Tax Appeals Decisions (BTAs): **None.**

Appeal Division Decisions (WTDs):

- **8 WTD 065 (1989)(Date of sale occurs upon the time of sale. It does not require full payment on the date of sale to trigger the tax.)**
- **8 WTD 289 (1989)(Loss of tax payment in mail does not delay application of penalty.)**

Attorney General Opinions (AGOs): **None**



Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

**10. Review Recommendation:**

- ☒ **Amend**
- ☐ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- ☐ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**The rule should be revised to cross-reference the date of sale information for sales of a controlling interest of an entity owning Washington real property. It should also provide direction for determining the date of sale when water rights are transferred.**

**11. Manager action:** Date: \_\_\_\_\_

☐ Reviewed and accepted recommendation

Amendment priority:

- ☐ 1  
☐ 2  
☐ 3  
☐ 4